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REVIEW OF THE ROLE OF THE TRUSTEESHIP COUNCIL

Report of the Secretary-General

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I. INTRODUCTION

1. The present report has been prepared pursuant to General Assembly resolution 50/55 of 11 December 1995, in which the Assembly requested the Secretary-General to invite Member States to submit, not later than 31 May 1996, written comments on the future of the Trusteeship Council, and to submit to the General Assembly, as early as possible and before the end of its fiftieth session, for appropriate consideration, a report containing comments made by Member States on the subject.

2. By a note dated 27 December 1995, the Secretary-General, in accordance with the above resolution, invited all Member States to submit by 31 May 1996 written comments for inclusion in the report. As at 21 June 1996, 19 replies to that communication had been received from the Governments of Antigua and Barbuda, Belarus, Colombia, Ecuador, Iceland, Italy, Jamaica, Lesotho, Malaysia, Malta, New Zealand, Nicaragua, Norway, Pakistan, Slovenia, Sweden, the United Arab Emirates, the United States of America and Zimbabwe. These replies are reproduced in section II of the present report.

II. REPLIES RECEIVED FROM MEMBER STATES

1. ANTIGUA AND BARBUDA

[Original: English]

[25 January 1996]

The Government of Antigua and Barbuda wishes to state that it has carefully studied the report of the Sixth Committee (A/50/646) and at present can see no reason by the Trusteeship Council should be retained.

Antigua and Barbuda takes this view even though in its interventions in the First Committee, in matters pertaining to Antarctica, it is in the forefront of countries wishing to preserve mankind's common heritage, and has been most active in matters pertaining to the environment.

But, all of the concerns set out in document A/50/646 should be handled by the Second Committee which is adequate to deal with the matters mentioned in the report. At a time of severe financial constraints, efforts should be made at contraction, with increased efficiency, rather than expansion and unnecessary duplication.

Though it may be argued that the Trusteeship Council already exists, we are discussing assigning to it new functions which already have their rightful place in an existing committee; hence our reference to expansion or, if preferred, unnecessary duplication.

2. BELARUS

[Original: Russian]

[30 May 1996]

The Republic of Belarus is in favour of abolishing the Trusteeship Council, first and foremost because it has discharged its historic role. We consider that the Trusteeship Council, were it to be assigned functions of 'holding in trust for humanity its common heritage', would be duplicating the work of other organs of the United Nations system, including the United Nations Environment Programme, the International Maritime Organization and others. From a procedural standpoint, assigning to the Trusteeship Council functions with respect to the 'common heritage' calls for considerable changes in the Charter of the United Nations.

Nor should sight be lost of the fact that, in the eyes of many States, this organ is associated with the colonial past. Furthermore, the continued existence of the Trusteeship Council in its new capacity will entail the need to allocate considerable sums from the United Nations budget, and this will inevitably complicate the already extremely difficult financial situation of the Organization.

3. COLOMBIA

[Original: Spanish]

[15 March 1996]

The Government of Colombia believes that the Trusteeship Council has fulfilled the mandate entrusted to it by the Charter of the United Nations and has made a decisive contribution to the decolonization process that has transformed international society. Its achievements are one of the greatest sources of pride and a major success of the United Nations.

Now that the purpose for which the Trusteeship Council was established has been achieved, we do not see any reason to prolong its existence, especially at a time when the States Members of the United Nations are engaged in a process of reforming and streamlining its organs and functions.

4. ECUADOR

[Original: Spanish]

[28 February 1996]

The Government of Ecuador believes that the continued existence of the Trusteeship Council is unnecessary, since, with the completion of the decolonization process, it has fulfilled its mandate. The Council should, therefore, be disbanded.

5. ICELAND

[Original: English]

[21 June 1996]

In response to the Secretary-General's request for comments on the future of the Trusteeship Council, it is the position of the Government of Iceland that the Council has effectively attained its original goals and should be dissolved. This should be done in conjunction with the overall strengthening of the United Nations system through ongoing reforms and should reflect the Organization's ability to adapt to rapidly changing circumstances.

6. ITALY

[Original: English]

[30 May 1996]

1. In resolution 50/55 of 11 December 1995 on the review of the role of the Trusteeship Council, the General Assembly requested the Secretary-General to invite Member States to submit, not later than 31 May 1996, written comments on the future of the Trusteeship Council. Following the invitation from the Secretary-General, the Government of Italy has made the following comments concerning the future of the Trusteeship Council, having special regard to the various proposals that have been advanced in this area.

2. The first proposal is to abolish the Trusteeship Council, whereas the second is to maintain its present mandate, even though there are no more territories to be administered. Italy is of the view that particular caution should be used in considering both of these possibilities. The abolishment of a principal organ of the United Nations is a measure of great relevance for the institutional balance set out in the Charter. It would affect, in this case, an organ established on the basis of the principles of trust and common responsibility, which are no less fundamental, in the spirit of the Charter, than the principles of peace, security, equity, justice and the sovereign equality of States. To abolish the Trusteeship Council would also require recourse to the complex procedure of amending the Charter. On the other hand, maintaining the Trusteeship Council with its present mandate, in the absence of concrete functions to be performed with respect to territories under the trusteeship system, would not make full use of the potentials of this organ in pursuing the purposes of the United Nations.

3. A third option is suggested in the proposal of the Government of Malta to enhance the mandate of the Trusteeship Council, and to include in it the responsibility for safeguarding the "common heritage of mankind". The Trusteeship Council would be transformed into a guardian and trustee of the resources of the "global commons". Both of these concepts (common heritage of mankind and global commons) are well known in modern legal doctrine and international practice. They relate to a variety of resources transcending the limits of national jurisdiction or the national interests of a single State. They concern areas such as the regime of the seabed beneath the high seas, the

use of outer space, climate change, the preservation of biodiversity and the protection of the environment, particularly in extraterritorial zones. These concepts have been applied in various multilateral conventions, including the 1982 United Nations Convention on the Law of the Sea, and the 1992 convention that emerged from the Rio Conference on Environment and Development (the United Nations Framework Convention on Climate Change and the Convention on Biological Diversity). According to the proposal of Malta, the Trusteeship Council should be entrusted with the power of coordinating conventional mechanisms dealing with the resources of the "global commons", and the efforts of the international community to protect them.

4. It is the view of the Government of Italy that the proposal of Malta deserves consideration. The termination in 1993 of the agreement on the last territory under the trusteeship system (Palau) represents an opportunity to review the role of the Trusteeship Council. At the same time, the suggestion to assign to this body new responsibilities in the area of safeguarding the resources of the global commons appears to be consistent with the furtherance of the principle of trust which was at the source of its establishment as a principal organ of the United Nations.

7. JAMAICA

[Original: English]

[20 June 1996]

The Government of Jamaica supports the abolition of the Trusteeship Council since it has fulfilled its mandate.

The Trusteeship Council was established to supervise the administration of Trust Territories and to ensure that Governments responsible for their administration took adequate steps to prepare them to achieve self-government or independence. Having regard to the fact that all Trust Territories have attained independence, the Trusteeship Council has fulfilled its mandate as prescribed under the Charter of the United Nations.

The Government of Jamaica is therefore of the view that, having successfully accomplished this mandate, the Trusteeship Council should be abolished. The General Assembly should therefore proceed with the necessary steps to eliminate the Council in accordance with Article 108 of the Charter.

8. LESOTHO

[Original: English]

[30 May 1996]

The Government of the Kingdom of Lesotho wishes to state that it favours assigning to the Trusteeship Council a new mandate of coordinating and safeguarding the common heritage of humankind in order to preserve peace and stability.

The preservation of humankind's common heritage, which the international community holds in trust for future generations, requires a coordinated approach. No institution is better suited to undertake this task than the Trusteeship Council whose track record on activating common responsibility cannot be faulted.

Even though there may be constitutional problems in changing the mandate, such problems are not insurmountable and, if dealt with in the context of the overall amendment of the Charter, can be resolved.

9. MALAYSIA

[Original: English]

[7 February 1996]

In view of the fact that the Trusteeship Council has fulfilled the mandate that had been entrusted to it, the Government of Malaysia is of the view that the Council should be disbanded.

10. MALTA

[Original: English]

[15 May 1996]

The Future of the Trusteeship Council 1/

Revitalizing the United Nations

1. Consolidation of peace, human rights and sustainable development envision a world order based on solidarity, subsidiarity and joint action.

2. Freed from the grip of the cold war, the international community could go well beyond detente. Contemporary realities have breathed the will of Member States to revitalize the United Nations system. The common goal and aspiration is that of an enhanced United Nations that better responds to the challenges of our time in the interest of present and future generations.

3. The forty-fifth session of the United Nations General Assembly was the threshold to this new era. Hopes and disappointments landmarked that session. They imposed a need to review the ability of the United Nations to respond. Presiding at that session, Professor Guido de Marco held wide-ranging

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1/ Comments by the Government of Malta in terms of General Assembly resolution 50/55 of 11 December 1995, on the review of the role of the Trusteeship Council, and in response to the Secretary-General's invitation to Member States to make written submissions by 31 May 1996.

consultations on the subject with Member States and originated a number of initiatives to revitalize the United Nations and its principal organs. 2/

4. On 31 January 1992, the Security Council held a historic meeting at the level of heads of State and Government. The new challenges faced by the international community in the search for peace were noted. "All Member States expect the United Nations to play a central role at this crucial stage. The members of this Council stress the importance of strengthening and improving the United Nations to increase its effectiveness." 3/

5. This urgent need was also the leitmotif of comprehensive reflection by Dr. Boutros Boutros-Ghali, the United Nations first post-cold war Secretary-General. His Agenda for Peace and Agenda for Development underlined the necessity to evaluate potentials and limitations of the United Nations system in the light of the new dynamics in international relations.

6. These initiatives, together with other proposals from within and outside the system, have led to current broad-ranging discussion among Member States. The quest remains that of improving the present capacities of the United Nations without losing sight of the fundamental principles on which the Organization was founded.

7. Malta's proposal to review the role of the Trusteeship Council, 4/ first launched by the President of the forty-fifth session of the United Nations General Assembly, 5/ was inspired and sustained by this comprehensive assessment of the Organization, current realities and nascent needs.

Balance pervades the Charter

8. The United Nations was founded on the complete vision which emerged from the bitter experiences of war and conflict. This inspiring philosophy required a holistic institution: an organization mandated with responsibility for distinct yet interconnected areas of human activity and the safeguard of agreed and fundamental principles of international behaviour.

9. Balance pervades the Charter. Each principal organ projects principles vital to an international order based on peace, justice and freedom. Each is entrusted with specific responsibilities relative to the promotion of equity and the elimination of causes of conflict and tension. They must be viewed together within a perspective of equitable, balanced promotion and safeguard of the principles that each represents.

2/ A Presidency with a Purpose, Ministry of Foreign Affairs, Malta, 1991.

3/ See S/23500.

4/ See A/50/142.

5/ See A/45/PV.82.

10. Institutional equilibrium is not the cause but the effect of this balance. The six principal organs are not mere organizational limbs designed solely for the pragmatic distribution of work which can be amputated at will.

11. Establishment of the Trusteeship Council as a principal organ of the United Nations was based on the built-in principles of trust and common responsibility. Like peace, security, equity, justice and the sovereign equality of States, these two fundamental principles cannot be bound or conditioned in their enunciation, acknowledgement or application by specific historical conditions or events.

12. The essential and innate value of principles is that they are lasting in time. Principles are the key to interpret events. Being indispensable in guiding international behaviour, they cannot be disposed of - neither can those principal organs which, in a balanced manner, are entrusted by the Charter to promote and safeguard them.

13. "With all the convulsions in global society, only one power is left that can impose order on incipient chaos: it is the power of principles transcending changing perceptions of expediency." 6/

Non-military sources of instability

14. In the execution of its mandate during the past 50 years, the Trusteeship Council was guided by the underlying principles of trust and common responsibility. These provided the Council with the ability to address the peculiar nature of the different activities entrusted to it and a broad framework for the adoption of a consistent and coordinated approach.

15. The primary and basic objective of the trusteeship system was the furtherance of international peace and security through the activation of common responsibility. Placing territories under this system was unique. It forestalled the conflict potential of differing claims of possession. It was a tangible manifestation and application of the principles of trust and common responsibility by the international community. Benefit in the adoption of these principles was dual. Application proved to be a prototype of pre-emptive diplomacy. It ensured the progressive development towards self-government or independence of the inhabitants of the territories.

16. Since then the concept of trust as a source of common responsibility of States has been further evolved by the international community. Conflict potential could be pre-empted if certain areas or sectors, rather than left to open, unrestrained competition, were to become common responsibility of the international community as a whole. This awareness led to the recognition of such concepts as common heritage, global commons and global concerns. Trust is

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6/ Statement by the Secretary-General at the 3046th meeting of the Security Council, held at the level of Heads of State and Government on 31 January 1992 (see S/PV.3046).

their common denominator. These concepts now form the basis of a number of conventions considered indispensable for international peace and security.

17. "The absence of war and military conflict amongst States does not in itself ensure international peace and security", warned the Heads of State and Government of the Security Council members in January 1992. "The non-military sources of instability in the economic, social, humanitarian and ecological fields have become threats to peace and security." They emphasized that "The United Nations membership as a whole, working through the appropriate bodies, needs to give the highest priority to the solution of these matters." 7/

18. Conventions based on the application and consolidation of the principle of trust form part of the international community's response to this need. The domain established in committing areas or sectors to the common responsibility of the international community as a whole is a new territory of trust. The agencies instituted by the conventions to manage and maintain these sectors are the administrators of these new trust territories. The body most appropriate to coordinate these intertwined activities of trust is the Trusteeship Council.

Current mandate of the Trusteeship Council

19. Since the end of the cold war, the United Nations has had to deal with new situations of a diverse and unpredictable nature. Given the different characteristics of these evolving situations, the United Nations should enhance rather than limit its options to act. It should not attenuate the potential envisaged by the foresight of the framers of the Charter. In seeking to address sources of instability, the United Nations should not dismantle a Charter mechanism which could prove to be appropriate in certain situations.

20. On 25 May 1994, at its 1705th meeting, the Trusteeship Council adopted amendments to its rules of procedure. 8/ By resolution T/RES/2200 (LXI), it was established that "the Trusteeship Council shall meet as and where occasion may require, by decision of the Trusteeship Council, or by decision of its President, or at the request of a majority of its members, or at the request of the General Assembly, or at the request of the Security Council acting in pursuance to the relevant provisions of the Charter of the United Nations".

21. In adopting this resolution without a vote, the Council recognized that its mandate had not been exhausted. Apart from its role in the promotion and consolidation of the principles of trust and common responsibility, the Council's powers, in particular those in terms of Article 77.1 (c) of the Charter, remain.

Depository of the principle of trust

7/ See S/23500.

8/ See T/L.1292.

22. The Charter is the source of the United Nations raison d'être, powers and potential. It was and remains the constant point of reference for Member States, particularly at a time when the Organization faces an array of concerns of an unprecedented nature. Abolition of a principal organ affects the balance of principles enunciated in the Charter. It is not a simple act of institutional pruning. The Trusteeship Council still has an effective role in the furtherance of the principle of trust which was at its inception as a principal organ.

23. The Trusteeship Council's essential attribute as depository of the principle of trust was at its basis and provides the single parameter relative to its future.

24. In 1967 Malta launched the concept of common heritage as applicable to the seabed, ocean floor and the subsoil thereof. The principle of trust is the keystone on which the concept of common heritage rests. Since then the principle of trust has been incorporated in other concepts in a number of conventions and agreements. Its diffusion is a recognition of the common responsibility of the international community as a whole in the management and governance of certain areas.

25. Human activity in these areas must be assessed within the wider context of its impact and consequence on the welfare and well-being of the entire family of nations. Common responsibility for these areas contributes towards international peace and security by pre-empting those tensions which would otherwise ensue from conflicting claims.

26. The Trusteeship Council's current mandate can impress on the coordinated approach required in the application of the principle of trust in different areas. Malta's proposal to review the role of the Trusteeship Council was based on its essential attribute as depository of the principle of trust. Custodianship of this principle pre-empts tensions while securing the commonwealth of present and future generations.

27. Progress has already been achieved in each distinct area where the principle of trust has been applied. Institutional mechanisms have been set up to implement the provisions of each of the relevant conventions. Each maintains and manages the various and distinct areas. These existing agencies and bodies are and should remain the backbone and nervous system of worthy advance and rational implementation.

Coordination core

28. The distinct assignment of these bodies, however, needs a coordinating core. To better address potential institutional gaps and duplication of work, coordination is required in the wider interconnective framework of trust and common responsibility. The international community recognizes the need for coordination. Curtailing duplication of effort and institutional fragmentation is cost-saving and brings to the fore other areas for which Member States bear common responsibility. This coordinated approach is still lacking.

29. Malta believes that the Trusteeship Council is the focal point for such coordination. The mandate of this principal organ is based on the fundamental principles of trust and common responsibility. Like the other principal organs, the Council should continue to promote and safeguard the fundamental principles which are at the basis of its mandate. The application of the principles of trust and common responsibility in a number of international conventions makes their coordination the natural task of the Trusteeship Council.

30. For the above reasons, Malta believes that further consideration should be given to the review of the role of the Trusteeship Council.

11. NEW ZEALAND

[Original: English]

[21 May 1996]

As regards the general issue of the future of the Trusteeship Council, New Zealand supports the recommendation of the Secretary-General, contained in his report on the work of the Organization (A/49/1), that action should be taken in accordance with Article 108 of the Charter of the United Nations to delete the Trusteeship Council as an organ of the United Nations. Technically, the most efficient way of achieving this would be to follow the course developed by the General Assembly with respect to those other anachronistic provisions of the Charter - the references to "enemy States". Then, in due course, when opportunity permits, all these redundant provisions of the Charter can be deleted in one omnibus amendment.

As to the specific proposal raised by Malta (see A/50/142), the question of how the United Nations machinery for dealing with international environmental issues should be developed is a very important substantive issue that needs to be addressed in the first instance by the policy machinery that the General Assembly has set up to consider coordination of environmental and development issues - the Commission on Sustainable Development. This should be done in the context of the special session in June 1997, when the General Assembly will review the overall progress achieved in implementing Agenda 21 adopted at the 1992 United Nations Conference on Environment and Development, and consider appropriate strategies for its implementation in the coming years.

Although New Zealand agrees with the need to review fully the way in which the United Nations machinery in the area of the environment works, it has reservations about the narrow focus of Malta's proposal. It is limited to only one small part of the environmental agenda. New Zealand believes that any reform in this area would need to have a much broader focus.

12. NICARAGUA

[Original: Spanish]

[29 May 1996]

The Government of Nicaragua shares the views put forward by the delegation of Malta at the fiftieth session of the General Assembly, as contained in document A/50/142, on transforming the role of the Trusteeship Council, in view of the fact that the provisions of the Charter of the United Nations pertaining to the Council have become an anachronism now that the last Trust Territory has exercised its right of self-determination.

However, the Government of Nicaragua believes that, if the appropriate amendments are adopted with a view to updating the Council's mandate in keeping with new and changing international conditions, the Council could still play as important a role now and in the future as it played in the past, especially during the era of decolonization.

The proposal of Malta to transform the Trusteeship Council from the guardian of Non-Self-Governing Territories into a body that would be the guardian of humanity's common heritage should be studied, obviously in harmony with the reforms of the United Nations currently being pursued. The reformed Council should not duplicate the efforts of other United Nations organs or specialized agencies.

Consideration of the new role for the Trusteeship Council could be carried out by expanding the mandate of the Open-ended High-level Working Group of the General Assembly on the Strengthening of the United Nations System or by the Special Committee on the Charter of the United Nations and on the Strengthening of the Organization.

13. NORWAY

[Original: English]

[5 June 1996]

The Government of Norway is of the opinion that the Trusteeship Council has fulfilled its mandate according to Chapters XII and XIII of the Charter of the United Nations. On the other hand, it harbours doubts as to whether there would be much to gain from abolishing the Council through a formal amendment of the Charter. Rather, a rationalization of administrative procedures may be considered in order to avoid unnecessary meetings and reports.

14. PAKISTAN

[Original: English]

[31 May 1996]

The views of the Government of Pakistan are as follows:

(a) While commending the role played by the Trusteeship Council in the past, we believe that it should continue to function as one of the six principal organs of the United Nations;

(b) We also believe that the United Nations General Assembly should hold detailed discussions to clearly specify the areas of the Council's activities in future in conformity with the principles enshrined in the Charter of the United Nations.

15. SLOVENIA

[Original: English]

[30 May 1996]

The Government of the Republic of Slovenia considers the ongoing discussion on the review of the role of the Trusteeship Council necessary and useful. The United Nations in general and the Trusteeship Council in particular should be able to adjust to the changing reality and evolving needs of the international community. The discussion on the review of the role of the Trusteeship Council that started at the fiftieth session of the General Assembly is an important contribution in that regard.

The Government of the Republic of Slovenia is of the view that a thorough discussion on various options regarding the future of the Trusteeship Council is necessary. In this context, due attention should be given to the specific proposal by Malta which contains a number of interesting concepts that merit careful consideration by the Members of the United Nations. Slovenia recognizes the value of the proposal by Malta, in particular as it emphasizes the need for a comprehensive approach to global commons and offers useful ideas regarding the role to be assumed by a transformed Trusteeship Council.

16. SWEDEN

[Original: English]

[29 May 1996]

The Government of Sweden welcomes the opportunity to provide comments on the future role of the Trusteeship Council. This principal organ of the United Nations has fulfilled the important role assigned to it by the Charter in a commendable manner. With the termination in 1994 of the last trusteeship

agreement, it has completed its task and has ceased to carry out any substantive work.

It is in this situation obvious that the future of the Trusteeship Council has to be examined. Proposals to terminate this organ have accordingly been made, inter alia, by the Secretary-General.

No Trust Territory has for the past two years been administered by the Trusteeship Council. It does not seem likely that new Trust Territories will be established in the future. Even if that were to occur, it would seem that other principal organs of the United Nations with a broader and more representative composition would be fully capable of carrying out functions similar to those of the present Trusteeship Council.

Sweden would like to highlight proposals made on defining a new, alternative role for the Trusteeship Council. The Commission on Global Governance, in its report Our Global Neighbourhood, has suggested that the Trusteeship Council be given a new mandate over the global commons in the collective interest of humanity. The global commons has in this context been defined to include the atmosphere, outer space, the oceans beyond national jurisdiction, and the related environment and life-support systems that contribute to the support of human life.

In Sweden's view, a United Nations organ entrusted with such responsibilities could play an essential role in the pursuit of sustainable development. Such functions could be given to a principal or subsidiary organ of the Organization. To entrust them to a reconstituted Trusteeship Council would require a redefinition of the functions and powers of this organ, as well as a changed composition. Sweden would be ready to contribute to such an effort, bearing in mind that it would require broad international support.

Sweden would be in favour of a broad and open discussion of how the United Nations can best organize its work so as to ensure that the global commons are managed in the collective interest of humanity, including future generations. Such a discussion should be part of the ongoing process to reform the United Nations system. It should also engage appropriate subsidiary bodies and functional commissions, such as the Commission on Sustainable Development and bodies entrusted with responsibilities for particular aspects of the global commons.

17. UNITED ARAB EMIRATES

[Original: Arabic]

[11 June 1996]

With reference to General Assembly resolution 50/55 on the review of the role of the Trusteeship Council, the Government of the United Arab Emirates is pleased to support the proposal of the Secretary-General that the Council should be dissolved, since it has completed the task which was entrusted to it under the Charter. Accordingly, the provisions of the Charter concerning the

establishment of the aforementioned Council should be amended as appropriate in the light of the resolution, in order to abolish the Council.

18. UNITED STATES OF AMERICA

[Original: English]

[11 June 1996]

It is recalled that the Secretary-General, in his report on the work of the Organization, submitted to the General Assembly at its forty-ninth session (A/49/1), recommended that the Assembly proceed with steps to eliminate the Trusteeship Council following the procedures in Article 108 of the Charter of the United Nations.

The Government of the United States of America is of the view that, in line with the Secretary-General's recommendation and consistent with the spirit of reform that permeates the work of the United Nations today, it is appropriate and timely for the Organization to begin the process of reviewing Charter provisions dealing with the Trusteeship Council with a view to their deletion from the Charter.

As is generally acknowledged, the Trusteeship Council served its purpose well and has finished its valuable work. In this connection, in May 1994, the Trusteeship Council amended its rules of procedure to discontinue regular meetings and to reconvene only on request. Therefore, as a practical matter, the council no longer meets, and it has no budget. Much credit must be given to the Trusteeship Council for its common-sense approach to its new status. As the world changes, so must the Organization adjust.

There is a temptation, of course - since the Trusteeship Council is no longer active - to allow it to remain on the books in a quiescent state and to forego the effort involved in eliminating it from the Charter. But such an approach is contrary to the spirit of rational, common-sense reform of the Organization and to the rejection of "business as usual" reflected in the Secretary-General's recommendation on this subject, to which the United States subscribes.

The United States wishes further to comment briefly on proposals that would seek to reconfigure the role of the Trusteeship Council, or to create a new principal organ or other body.

Any such proposal must be justified on its own merits. From a constitutional perspective, it would be exceptionally difficult for the Trusteeship Council to be transformed into a new organ with a new mandate without significant revision of the Charter. There is a plethora of references to the Trusteeship Council and trusteeship system throughout the Charter of the United Nations. Such references include those in Articles 7 (1), 16, 18 (2), 24 (2), 73 (e), 75 to 95 (chapter XII), 86 to 91 (chapter XIII), 98 and 101 (2). A review of these provisions supports the conclusion that major amendment of the

Charter would be necessary in order to accommodate the transformation of the Trusteesnip Council into a newly mandated organ.

It thus appears that the better course would be to terminate the Trusteeship Council with its current mandate and composition. Accordingly, as a procedural matter, the legal steps called for by the Secretary-General to effect that result can and should proceed independently of consideration of a new or substitute organ or body. There need not be, and should not be, any linkage between this straightforward legal/technical, Charter "clean-up" exercise on the one hand, and what will doubtless be a complex, politicized and lengthy exercise on the other. Indeed, action on the Secretary-General's recommendation can begin forthwith. Conversely, any proposal for a new or substitute United Nations organ or body would necessarily need to undergo a substantial review, including - as a preliminary matter - that of the General Assembly's Open-ended High-level Working Group on the Strengthening of the United Nations system, referenced in General Assembly resolution 50/55

The United States is of the view that the logical way to respond to and act on the Secretary-General's recommendation to eliminate the Trusteeship Council is for the Organization to commence a process similar to the one that resulted in a resolution being passed by the General Assembly at its fiftieth session, calling for the deletion of the Charter's "enemy States" clauses.

Finally, the United States notes that the proposed amendments to the Charter that would result from this exercise should at the appropriate time be further addressed by the Organization, together with other amendments.

19. ZIMBABWE

[Original: English]

[13 June 1996]

The Government of the Republic of Zimbabwe considers the Trusteeship Council to have fulfilled its mandate and it should therefore be abolished.

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Agenda item 138

ADMINISTRATIVE AND BUDGETARY ASPECTS OF THE FINANCING OF THE UNITED NATIONS PEACE-KEEPING OPERATIONS

Review of the rates of reimbursement to the Governments of troop-contributing States

Report of the Advisory Committee on Administrative and Budgetary Questions

1. The Advisory Committee on Administrative and Budgetary Questions has considered the report of the Secretary-General on the review of the rates of reimbursement to the Governments of troop-contributing States (A/48/912). During its consideration of this item, the Committee met with representatives of the Secretary-General, who provided additional information and clarification.

2. The principle of standard rates of reimbursement to be made to Governments of troop-contributing States for the costs incurred by them in providing troops for service in the United Nations peace-keeping forces, on the basis of equality of treatment, was initially established by the General Assembly at its twenty-ninth session. Rates of reimbursement, effective since October 1973, were reviewed by the General Assembly in 1977, 1980, 1985, 1987 and 1989 and revised in 1977, 1980 and 1991. Furthermore, the General Assembly, in its resolution 40/247 of 18 December 1985, recommended a review by the Secretary-General, in consultation with the troop-contributing States, at least once every two years, if, in the light of inflation and currency-rate exchange fluctuations or other factors brought to the attention of the Secretary-General, the rates affected the absorption factor of two or more of the troop-contributing States.

3. As indicated in paragraph 9 of the Secretary-General's report (A/48/912), three basic points were taken into consideration when the initial standard rates of reimbursement were calculated in 1973: a principle of equality in service; no Government should receive higher reimbursement than its actual cost; and

troop-contributing States should be reimbursed at least the actual overseas allowance paid to their troops. Paragraph 10 further indicates that wide variations exist in troop costs among troop-contributing countries and not all Governments are fully compensated for these costs. That portion which is not compensated by standard rates of reimbursement, but absorbed by the troop-contributing country, is referred to as the "absorption factor" and expressed in percentage terms.

4. In his report to the General Assembly at its forty-seventh session (A/47/776), the Secretary-General indicated that there had been a revision in the format of the questionnaire sent to troop contributors to identify separate cost elements of troop costs. However, the report also indicated that verification of some of the data was still pending. Only 35 per cent of the Member States surveyed had responded in 1992 (20 out of the 57 surveyed), thus making it difficult to draw any conclusions at the time.

5. The subsequent report of the Secretary-General (A/48/912) incorporated the cost information provided by six additional Member States received in 1993, thus increasing participation to 45 per cent of the 57 surveyed. The list of those States providing military personnel to United Nations peace-keeping operations, indicating those providing troops, military observers and those who replied to the questionnaire, is contained in annex I to the Secretary-General's report.

6. Current rates of reimbursement, effective since July of 1991, are the following: pay and allowances for all ranks amount to $988 per person per month; supplementary payment for specialists (limited to a maximum of 25 per cent for the logistics contingents and 10 per cent for other contingents of their actual total strength) amount to $291 per person per month; a usage factor for personal clothing, gear and equipment for all ranks amounting to $65 per person per month; and reimbursement for personal weaponry (including ammunition) for all ranks, which amounts to $5 per person per month.

7. The rates of reimbursement for these last two items have remained in effect since 1975. Upon inquiry, the Advisory Committee was informed that the $65 reimbursement for personal clothing, gear and equipment was based on the Government's national scale of issue and included shirts, trousers, socks, shoes, boots, jackets, underwear, belt, caps, sweaters, gloves, etc. The $5 per person per month for personal weaponry and ammunition related to ammunition for training and the maintenance of personal weapons.

8. The Advisory Committee points out that there are other services provided by peace-keeping missions to contingent personnel, that are not mentioned in the report. The Advisory Committee requests the Secretary-General, in the context of the next report on this matter (see para. 12 below), to include a complete analysis of all services being provided to troops, together with an indication of the rationale for the provision of each service and how they are administered and accounted for.

9. Paragraph 11 of the Secretary-General's report indicates that the collection and compilation of comparable data relating to troop costs started in 1980. However, overall absorption factors tend to vary according to the combination of troop contributors surveyed at a particular year.

10. Annex II to document A/48/912 lists the average cost per person per month to the troop contributors in respect of pay and allowances of troops, the corresponding overseas allowance, the United Nations reimbursement in respect of pay and allowances of troops, and the corresponding absorption factor. The data included indicate that 5 out of the 15 States were not being fully reimbursed for overseas allowance, and 4 out of the 15 were being reimbursed in excess of actual cost for pay and allowances (including overseas allowances).

11. As indicated in paragraph 25 of the Secretary-General's report, the resulting overall average absorption factor for 1991 was 43.1 per cent. This average decreased by 6.2 per cent when compared with the 1989 factor at 49.3 per cent. The Secretary-General indicates in the same paragraph that these rates appeared to be reasonable, not warranting an adjustment at that stage.

12. The Advisory Committee points out that the results of the survey and the corresponding data referred to in document A/48/912 date back to 1992-1993. Since then, not only has three years passed, but the number of troop contributors has increased from 57 to 70, making the information contained therein outdated. The Advisory Committee is of the opinion that before the General Assembly takes action on the standard rates of reimbursement, the Secretary-General should be requested to carry out a new survey. Furthermore, the General Assembly may wish to provide further guidance regarding other factors or expenses to be taken into account in the survey.

13. The Advisory Committee is concerned at the low level of response by troop-contributing countries. The Advisory Committee recommends that the matter be addressed by the General Assembly so that more accurate and comprehensive data is provided to establish whether or not a change in the standard rates of reimbursement to the Governments of troop-contributing States is warranted.